

Talking Points for Meeting with Governor re: Agremax/AES

Talking Points

- 1) AES needs to cease the current practice of uncontrolled direct land application/disposal of coal ash, Agremax, and other minimally processed coal ash-based material due to analytical results of sampling conducted by EPA. The PR-EQB beneficial use determination (BUD) is not protective of human health and the environment.
- 2) We would like to see the PR government play an active role in stopping the current practice of uncontrolled direct land application/disposal of this material.
- 3) PREQB has not responded to EPA's comments concerning the BUD that we provided in July 2012.
- 4) EPA and AES need to agree on a reasonable and effective system for the management and disposal of coal ash, Agremax, and other minimally processed, coal ash-based material to reduce risks to human health and the environment, including:
 - a) Short-term management and storage, including mixing operations, only on impermeable surfaces with run-off and dust controls;
 - b) Disposal in landfill cells constructed to meet RCRA §258 requirements, including dust control, liners, groundwater monitoring, and leachate controls;
 - c) Closure and capping of past disposal sites with due consideration of run-off controls, floodplain protection, and groundwater monitoring;
 - d) Relocation of past disposal piles that cannot be adequately closed or present a significantly greater risk to human health and the environment, including drinking water aquifers, sensitive ecosystems (*e.g.*, wetlands), and endangered species.
- 5) EPA will attempt to sign a consent agreement with AES under RCRA §7003 to formalize such a management and disposal system.

Background

The widespread land placement of Agremax may present significant environmental and health concerns due to the potential for leaching and the release of toxic heavy metals and the destruction of natural habitats. Agremax is a minimally processed, coal ash-based material comprising ash generated by the AES coal fired power plant in Guayama, Puerto Rico, and promoted as "product" ("Agremax™") under a P.R. Environmental Quality Board (EQB) solid waste exemption (but without any management controls).

In March 2012, EPA, accompanied by EQB, obtained a composite sample of "manufactured" Agremax stored at the AES Guayama facility. The composite sample was analyzed by an EPA-ORD contract laboratory, using a new test method developed by ORD that has since been published as an official EPA method. The analytical results gave us a clearer understanding of the heavy metal levels in Agremax under a range of pH conditions. ORD stated that "Agremax" had contaminant levels no different than observed in a "typical" coal ash, which is known to contain heavy metals. ORD also performed follow-up analysis, which confirms these findings.

12/5/12

Region 2 is proceeding with negotiating a RCRA §7003 Order to establish appropriate engineering controls and environmental protections at AES. We have scheduled a teleconference for 12/7/12 and an in-person meeting with AES' representative on 12/17/12 to discuss the implementation of appropriate engineering controls and uses described in 4 above.